

**REMARKS****I. Introduction**

Applicants have amended claims 11 and 12 and canceled claims 13 through 17. In general, amendments to the claims made herein are responsive to the Examiner's suggestions in the Office Action. Nevertheless, support for the amendments to claim 11 may be found, for example, at page 3, lines 5-9, and Example 8 (which demonstrates the anti-Influenza virus activity of the claimed hMBP with its unique domain structure comprising the extremely short collagen region, neck region, and carbohydrate recognition region) of the application as filed. Support for the amendments to claim 12 can be found in claim 10 as previously presented.

**II. The objections to the claims may be withdrawn.**

The Examiner objected to claim 12 and 13 for alleged syntax errors. In view of Applicant's amendment to claim 12 and cancellation of claim 13, the Examiner's objection to the claims may be withdrawn.

**III. The rejection of claims 12 and 13 under 35 U.S.C. § 112, second paragraph, may be withdrawn.**

The Examiner rejected claim 12 for assertedly omitting essential elements. Specifically, the Examiner asserted that the elements of "what the virus-infected cells are being presented in part (b)" and "a conclusion step which relates back to the preamble and which identifies when the conditions of the preamble have been met."

In response, Applicants have amended claim 12 to include the aforementioned asserted omitted elements. Namely, claim 12 has been amended to recite "culturing" rather than "presenting." Claim 12 has been further amended to recite a conclusion that relates back to the preamble as suggested by the Examiner. The amendments are not intended to narrow the claims. The Examiner also rejected claim 13 under 35 U.S.C. § 112, second paragraph. However, Applicants have canceled claim 13. Accordingly, Applicant submits that the rejection of claims 12 and 13 under 35 U.S.C. § 112, second paragraph, has been overcome and should be withdrawn.

**IV. The rejection of claims 11-17 and under 35 U.S.C. § 102(b) may be withdrawn.**

The Examiner rejected claims 11-17 under 35 U.S.C. § 102(b) as being anticipated by Kawasaki *et al* for reasons of record on page 3 of the Office action mailed on May 11, 2004. Specifically, the Examiner asserted that Kawasaki *et al.* teach an isolated hMBP and that the hMBP of Kawasaki *et al.* and the present invention are the same, regardless of the claimed method steps of the invention.

In response, Applicants first points out that claims 13-17 have been canceled. Notwithstanding Applicants disagreement with the Examiner's interpretation of Kawasaki *et al.*, claim 11 has been amended to replace the recitation of "comprising" with "consisting of." In this way, the domain structure of the claimed molecules is no longer claimed using "open language" as asserted by the Examiner. For the foregoing reasons, Applicants submit that the rejection of claims 11-17 under 35 U.S.C. § 102(b), has been overcome and should be withdrawn.

**V. The double patenting rejection may be withdrawn.**

The Examiner rejected claims 11-17 under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,110,708. In response, Applicants point out that Hoppe *et al.* (attached as Exhibit B in Applicant's response of November 12, 2004) teach that Mannan Binding Protein (MBP) is structurally different than the conglutinin described in the '708 patent, and that such structural diversity was well known in the art (See, e.g., Figure 1B of Hoppe *et al.*). Thus, contrary to the Examiner's assertion, the protein of the '708 patent would not meet the limitations of the present claims. Accordingly, Applicants the rejection of claims 11-17 under the judicially created doctrine of obvious-type double patenting may be withdrawn.

**CONCLUSION**

In view of the amendments and remarks made herein, Applicants submit that claims 11 and 12 are in condition for allowance and request notification of the same.

Dated: February 28, 2005

Respectfully submitted,

By



Eric M. Brusca

Registration No.: 52,664

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300